

Signed: November 19, 2012

**SO ORDERED**

PAUL MANNES  
U. S. BANKRUPTCY JUDGE

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MARYLAND  
at Greenbelt**

IN RE:	:	
	:	
LENIER ARLETTE DAVIS	:	Case No. 12-17954PM
	:	Chapter 7
Debtor	:	
-----	:	
MIDFIRST BANK	:	
Movant	:	
vs.	:	
	:	
LENIER ARLETTE DAVIS	:	
JANET M. NESSE, TRUSTEE	:	
Respondents	:	
-----	:	

**MEMORANDUM OF DECISION AND ORDER  
ON MOTION FOR RELIEF FROM STAY FILED BY MIDFIRST BANK**

This case came before the court on the Motion of MidFirst Bank for relief from the stay of 11 U.S.C. § 362(a) *nunc pro tunc*. Debtor argues in opposition to the Motion that MidFirst Bank fraudulently foreclosed on the subject property at 1840 Forest Park Drive, District Heights, Maryland, as it lacks standing, urging that there were deficiencies in the assignment of the subject security interest to it. Unfortunately for the Debtor, there was a foreclosure sale conducted in the Circuit Court for Prince George's County, Maryland, Civil Action CAE10-20875. The property was purchased at the foreclosure sale by MidFirst Bank, and the sale was subsequently ratified on April 27, 2011. Apparently the Debtor did not object to the foreclosure sale in State Court.

For the reasons set forth in the opinion of the United States Court of Appeals for the

Fourth Circuit in *Scott v. Bierman*, 2011 WL1807330, decided May 12, 2011, this court has no power over the subject property because the Debtor had no interest in the property when she filed her bankruptcy petition on April 27, 2012. Therefore, the property was not part of her bankruptcy estate. The Maryland court ratification order resolved all matters relating to the sale. It may well be that there are serious defects in the position of MidFirst Bank, but the resolution of those issues is one for the Circuit Court for Prince George's County and not for this court.

For that reason, the Motion for Relief from Stay *nunc pro tunc* is DENIED AS MOOT. However, it is the finding of this court that the filing of Debtor's bankruptcy petition under Chapter 7 on April 27, 2012, and the creation of a bankruptcy estate thereby did not bring the Forest Park Drive property into the estate and within the protection of § 362(a) of the Bankruptcy Code.

IT IS SO ORDERED.

cc:

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Lenier Arlette Davis, 1840 Forest Park Drive, District Heights, MD 20747

Janet M. Nesse, Trustee, 1775 Pennsylvania Avenue, NW, Suite 800, Washington, DC 20006

**End of Memorandum and Order**